

ORAL VIDEOTAPED DEPOSITION OF RICHARD W. WILSON, Ph.D.

Page 1

1 AMERICAN ARBITRATION ASSOCIATION

2 HOUSTON, TEXAS

3 ---000---

4 TRICON ENERGY, LTD.,

5 Claimant,

6 -against- No. 70 198 Y 00168 09

7 VINMAR INTERNATIONAL, LTD.,

8 Respondent.

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13 ORAL VIDEOTAPED DEPOSITION OF

RICHARD W. WILSON, Ph.D.

14 August 30, 2010

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18 Taken before CLAUDIA J. KNAP

19 CSR No. 6099

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## ORAL VIDEOTAPED DEPOSITION OF RICHARD W. WILSON, Ph.D.

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1 DEPOSITION OF RICHARD W. WILSON, Ph.D.

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3 BE IT REMEMBERED, that pursuant to Subpoena, and  
4 on the 30th day of August 2010, commencing at the hour  
5 of 8:38 a.m., in the offices of Bergeson, LLP, 303  
6 Almaden Boulevard, Suite 500, San Jose, California,  
7 before me, CLAUDIA J. KNAP, a Certified Shorthand  
8 Reporter, personally appeared RICHARD W. WILSON, Ph.D.,  
9 produced as a witness in said action, and being by me  
10 first duly sworn, was thereupon examined as a witness  
11 in said cause.

12

13 ---oOo---

14 APPEARANCES

15 For the Claimant Tricon Energy, Ltd.:

16 GEORGE R. DIAZ-ARRASTIA  
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18 Houston, Texas 77002

19

20 For the Respondent Vinmar International, LTD:

21 STEPHEN H. LEE  
Porter & Hedges LLP  
22 1000 Main Street, 36th Floor  
Houston, Texas 77002

23

24

25

ORAL VIDEOTAPED DEPOSITION OF RICHARD W. WILSON, Ph.D.

Page 5

1 For the Non-party witness Richard W. Wilson, Ph.D.:

2 DANIEL J. BERGESON

Bergeson, LLP

3 303 Alameden Boulevard, Suite 500

San Jose, California 95110

4

5

Also present: Brad Lockwood, Tricon Energy

6

Mark S. Antonvich, Vinmar

7 International, Ltd.

8 Nick Silva, Televideo Productions

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ORAL VIDEOTAPED DEPOSITION OF RICHARD W. WILSON, Ph.D.

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1 THE VIDEOGRAPHER: On the record.

2 My name is Nick Silva. I'm a qualified video  
3 technician, videotaping on behalf of Aiken & Welch  
4 Court Reporters.

5 The court reporter today is Claudia Knap.  
6 Today's date is August 30th, 2010. And the present  
7 time is 8:38.

8 The location of this deposition is the  
9 Bergeson Law Firm at 303 Almaden Boulevard, San Jose,  
10 California.

11 Today's witness is Dr. Rick Wilson in the case  
12 of Tricon Energy, LTD against Vinmar International,  
13 LTD, Case No. 70 198 Y 00168 09. The American  
14 Arbitration Association, Houston, Texas.

15 His deposition was noticed by Steven Lee for  
16 the Respondent.

17 Would the counsel for the parties please  
18 identify themselves and for whom they are appearing?

19 MR. LEE: Steven Lee appearing for Vinmar.

20 Just so that the record is clear, the subpoena  
21 was issued in this deposition as being taken subject to  
22 without waiver of Vinmar's objection to arbitration.

23 MR. DIAZ-ARRASTIA: George Diaz-Arrastia  
24 appearing for Tricon Energy, Limited, the Claimant.

25 MR. BERGESON: Good morning. Daniel Bergeson

1 of Bergeson, LLP. I'm counsel for the non-party  
2 witness, Dr. Rick Wilson.

3 THE VIDEOGRAPHER: Are there any other  
4 stipulations or statements that you would like on the  
5 record at this time?

6 MR. LEE: None from me.

7 MR. DIAZ-ARRASTIA: No.

8 THE VIDEOGRAPHER: The court reporter may now  
9 swear the witness.

10 RICHARD W. WILSON, Ph.D.,

11 sworn as a witness,

12 testified as follows:

13 EXAMINATION BY MR. LEE:

14 Q. Good morning, Dr. Wilson.

15 How are you today?

16 A. Just fine.

17 Q. Would you mind giving us your full name, sir?

18 A. Richard W. Wilson.

19 Q. How old are you?

20 A. 51.

21 Q. What is it that you do today?

22 A. I'm the CEO of Cobalt Technologies & Renewable  
23 Fuels & Chemicals Business.

24 THE REPORTER: Renewable Fuels and what?

25 THE WITNESS: Chemicals Business.

1           A. We loaded -- the origin -- my understanding was  
2     the origin that called for the -- the origin of the  
3     cargo was United States.

4           Q. Okay.

5           A. Which may be the U.S. Gulf.

6           Q. If Mr. Leyman had told you that Tricon was not  
7     guaranteeing U.S. origin, what would you have done?

8           A. I wouldn't have bought the cargo. I had no  
9     place to sell it. I couldn't count on the Asian  
10    traders taking it.

11           MR. LEE: I'm going to mark Exhibit 39.

12           (Exhibit No. 39 marked for  
13     Identification.)

14   BY MR. LEE:

15           Q. Take a look at that, if you would, sir.

16           Do you recognize Exhibit 39?

17           A. Yes.

18           Q. Are those E-mails that you exchanged with a  
19     gentleman named Nicklas Smith?

20           A. That's right.

21           Q. Who is Nicholas Smith?

22           A. I believe he's a ship charterer. I just don't  
23     remember the name of the company we were dealing with.

24           Q. How was Mr. Smith aware that you were in the  
25     market to buy MX on July 22nd, 2008?



1           A. I don't remember the exact moment of my  
2   discovery.

3           Q. Was it around July 31st?

4           A. I believe it was in this time frame. Yes.

5           MR. LEE: Okay. If you want --

6           THE VIDEOGRAPHER: We are now going off the  
7   record. The time is 9:42.

8           (Break taken from 9:42 to 9:53.)

9           THE VIDEOGRAPHER: On the record.

10          The time is 9:54. Back on the record.

11   BY MR. LEE:

12          Q. Dr. Wilson, I'm going to show you next what's  
13   previously been marked as Exhibit 17.

14                 I want to focus on this E-mail in the middle of  
15   the page from you to Vuk Rajevac; do you see that?

16          A. Uh-huh.

17          Q. That's on July 31, 2008 at 1:43 p.m.; correct?

18          A. That's what it says.

19          Q. Which is just a few minutes after Mr. Pascu had  
20   sent an E-mail to you; correct?

21          A. That's right.

22          Q. What did you say to Mr. Rajevac?

23          A. Well, I don't recollect the E-mail. I can read  
24   it to you, if you'd like.

25                 "Vuk, we cannot accept open origin for this

1 Q. Did Mr. Leyman ever tell you -- let me back up  
2 and ask you a different question.

3 Do you remember having some conversations with  
4 Mr. Leyman on July 31st or in the days following the  
5 31st when this problem became apparent?

6 A. I believe I did talk to him about it on the  
7 telephone.

8 Q. Did Mr. Leyman ever tell you that he did not  
9 believe that U.S. origin was a requirement of the  
10 purported deal?

11 A. I believe he did tell me that after it became  
12 clear that that's not what I was getting.

13 Q. Did he tell you that was his understanding or  
14 that was Tricon's position or do you remember?

15 A. No. I don't remember.

16 Q. Do you remember that in the days following July  
17 22nd, 2008, that the price for MX fell fairly  
18 considerably?

19 A. I do remember that.

20 It was actually a big surprise to me.

21 Q. Why was that?

22 A. Because the U.S. was tight.

23 Q. Let me show you Exhibit 9.

24 A. Okay.

25 Q. Did you send this E-mail to Mr. Leyman on

1 August 6th, 2008?

2 A. I do remember this, yes.

3 Q. You said to reiterate what we are prepared to  
4 accept and you went through some terms.

5 Let me just ask from -- the first perspective,  
6 were the terms that you mentioned in this E-mail to  
7 Mr. Leyman the terms that you had originally expressed  
8 to him on July 22nd, 2008?

9 A. That's right.

10 MR. DIAZ-ARRASTIA: Objection. Leading.

11 BY MR. LEE:

12 Q. Why was it that Vinmar was still willing to buy  
13 U.S. origin MX at 1310 in metric ton on August the 6th,  
14 2008?

15 A. I don't know that it was Vinmar. It was Rick  
16 Wilson.

17 Q. Okay.

18 A. And the way I saw this was I knew I was on the  
19 losing side of a trade, but I thought I was very clear  
20 what the terms were and that I recognized that while I  
21 would suffer the consequence in terms of my  
22 compensation and my relationship with the owners of  
23 Vinmar, I decided that I was better off in the long run  
24 sticking to what I originally thought were the terms of  
25 this agreement, taking a loss, in the interest of

1 Mr. Pascu says "If you have a right contact person  
2 would be great. I can make contacts and discuss.  
3 Thank you."

4 Do you see that, sir?

5 A. That's right. I see that.

6 MR. DIAZ-ARRASTIA: Let me now -- this one does  
7 have to be marked.

8 (Exhibit No. 41 marked for  
9 Identification.)

10 BY MR. DIAZ-ARRASTIA:

11 Q. Mr. Wilson, Exhibit 36 was July 29th, 2008 at  
12 11:54; a.m.; correct?

13 A. That's correct.

14 Q. The document we have just marked, Exhibit 41,  
15 is an E-mail from you to Mr. Pascu on July 29th, 2008  
16 at 11:59 a.m., just a few minutes later; correct?

17 A. Correct.

18 Q. Essentially you tell him Laurentiu, the contact  
19 is Vuk Rajevac; is that correct?

20 A. That's correct.

21 Q. And you gave him his E-mail address and cell  
22 phone number; correct, sir?

23 A. That's what's in the E-mail, yes.

24 Q. If you would take a look at Exhibit 15, again,  
25 sir, the first page of that exhibit.

1 (Exhibit No. 42 marked for  
2 Identification.)

3 BY MR. DIAZ-ARRASTIA:

4 Q. Dr. Wilson, calling your attention to Exhibit  
5 42, that appears to be a series of instant messages  
6 between you and Brad Lockwood?

7 A. Appears to be.

8 Q. In this set of instant messages, you're asking  
9 Mr. Lockwood whether Tricon would be interested in  
10 buying back the MX that Vinmar bought; correct?

11 A. I don't remember if that's what it was about.

12 Q. Take a look at the last entry from Rick Wilson  
13 at the bottom which is the next from the last.

14 It says Rick Wilson at SBCglobal.net.

15 7-31-2008. 9:41:27 a.m.

16 It says "Brad, if you want to wipe the slate  
17 clean, we can do that; otherwise, I have contract  
18 obligations. I supply info."

19 Did I read that correctly, sir?

20 A. Yes.

21 Q. When you say "wipe the slate clean," that means  
22 buy back what you sold me; correct?

23 A. I don't know that that's what this is in  
24 reference to.

25 Q. What does "wipe the slate clean" when you said

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Re: Deposition of **RICHARD W. WILSON, PH.D.**  
08/30/2010  
TRICON ENERGY VS. VINMAR INTERNATIONAL, LTD

As indicated below: Please be advised of current status of the Original Deposition.

- ☐ The attached Original Deposition, after being signed and notarized by the witness on the errata/correction page, is being forwarded to you in accordance with the Texas/Federal Rules of Civil Procedure.
- ☒ The attached Original Deposition, which was returned unsigned and/or not notarized, is being forwarded to you in accordance with the Texas/Federal Rules of Civil Procedure.
- ☒ The attached copies of Certificate(s) and/or executed and notarized Errata/Correction Sheet(s) are sent to you for your files. If you have any questions, please call.
- ☐ Please be advised that the Original Deposition was not returned within the time specified for unknown reasons.
- ☐ The attached Original Exhibit(s) are being returned without the Original Deposition, which was due on \_\_\_\_\_, for unknown reasons.
- ☐ A copy of the Certificate is being sent to the Court Clerk for filing of taxable cost.
- ☐ Original Deposition and Original Exhibits are being released on \_\_\_\_\_, due to trial on \_\_\_\_\_.

Sincerely,

*Ileana Chavez*

Ileana Chavez  
Sunbelt Reporting and Litigation Services  
No. 87653

ENCLOSED PLEASE FIND:

- ☒ Original Deposition
- ☒ Original Exhibit(s)
- ☒ Errata/Correction Page(s)
- ☒ Reporter's Certificate

cc: George Diaz-Arastia  
Daniel J. Bergeson

*One Call Does It All!*

## ORAL VIDEOTAPED DEPOSITION OF RICHARD W. WILSON, Ph.D.

CHANGES AND SIGNATURE			
WITNESS NAME:		DATE OF DEPOSITION:	
RICHARD W. WILSON, Ph.D.		AUGUST 30, 2010	
PAGE	LINE	CHANGE	REASON
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Sunbelt Reporting &amp; Litigation Services

Houston Austin Bryan/College Station Corpus Christi Dallas/Fort Worth East Texas San Antonio

## ORAL VIDEOTAPED DEPOSITION OF RICHARD W. WILSON, Ph.D.

1 I, RICHARD W. WILSON, Ph.D., have read the  
2 foregoing deposition and hereby affix my signature that  
3 same is true and correct, except as noted herein.  
4

5 \_\_\_\_\_  
6 RICHARD W. WILSON, Ph.D.

7 JOB NO. 87653  
8

9 THE STATE OF \_\_\_\_\_ )

10 COUNTY OF \_\_\_\_\_ )  
11

12 BEFORE ME, \_\_\_\_\_, on this day  
13 personally appeared RICHARD W. WILSON, Ph.D., known to me  
14 (or proved to me under oath of \_\_\_\_\_ or  
15 through \_\_\_\_\_) (description of identity  
16 card or other document) to be the person whose name is  
17 subscribed to the foregoing instrument and acknowledged to  
18 me that they executed the same for the purposes and  
19 consideration therein expressed.

20 Given under my hand and seal of office this  
21 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
22

23 \_\_\_\_\_  
24 NOTARY PUBLIC IN AND FOR

25 THE STATE OF \_\_\_\_\_



1 STATE OF CALIFORNIA )  
2 )  
3 COUNTY OF ALAMEDA )  
4

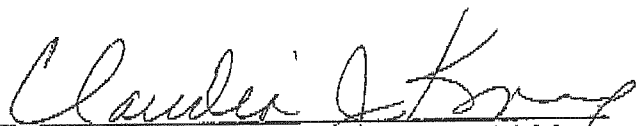
5 I, CLAUDIA J. KNAP, do hereby certify:

6 That RICHARD W. WILSON, Ph.D., in the foregoing  
7 deposition named, was present and by me sworn as a  
8 witness in the above-entitled action at the time and  
9 place therein specified;

10 That said deposition was taken before me at said  
11 time and place, and was taken down in shorthand by me,  
12 a Certified Shorthand Reporter of the State of  
13 California, and was thereafter transcribed into  
14 typewriting, and that the foregoing transcript  
15 constitutes a full, true and correct report of said  
16 deposition and of the proceedings that took place;

17 IN WITNESS WHEREOF, I have hereunder subscribed my  
18 hand this 1st day of September 2010.

19  
20  
21  
22  
23  
24  
25

  
CLAUDIA J. KNAP, CSR No. 6099  
State of California

Job No. 87653